

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0728**

State of Minnesota,
Respondent,

vs.

Ashley Ann Stanley,
Appellant.

**Filed January 17, 2023
Affirmed
Bryan, Judge**

Goodhue County District Court
File No. 25-CR-17-1597

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Stephen F. O’Keefe, Goodhue County Attorney, Christopher J. Schrader, Assistant County Attorney, Red Wing, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Abigail H. Rankin, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Larkin, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this probation-revocation appeal, appellant challenges the district court’s decision to revoke her probation, arguing that the district court made the following two errors: (1) the district court abused its discretion in determining that the criteria for revocation were satisfied; and (2) the district court did not make adequate findings before revoking

her probation. Because the district court did not abuse its discretion and made the required findings, we affirm.

FACTS

In June 2017, respondent State of Minnesota charged appellant Ashley Ann Stanley with one count of first-degree sale of a controlled substance, one count of conspiracy to commit first-degree sale of a controlled substance, one count of first-degree possession of a controlled substance, and one count of fleeing a peace officer in a motor vehicle. Pursuant to a plea agreement, Stanley pleaded guilty in January 2020 to conspiracy to commit first-degree sale of a controlled substance. At the plea hearing, Stanley admitted that she possessed 329 grams of methamphetamine and conspired with another person to sell it to a third party. In exchange for the guilty plea, the state dismissed the remaining charges and agreed to a downward dispositional departure.

In June 2020, the district court imposed a 65-month term of imprisonment, but granted a downward dispositional departure, staying execution of this prison sentence for 10 years. The stated basis for the departure was Stanley's "amenability to treatment and probation." The district court noted that Stanley was remaining sober, was in outpatient treatment, and was making progress towards regaining custody of her child. The district court imposed several conditions of probation, including that Stanley follow all rules of probation, abstain from alcohol and controlled substances, submit to random testing, and follow all recommendations from a chemical dependency evaluation.

In April 2021, Stanley's probation officer filed a probation violation report. Stanley subsequently admitted three violations of the conditions of probation: she had failed to

contact probation as directed, failed to notify probation of an address change, and failed to follow a treatment recommendation from an updated chemical dependency evaluation. The district court declined to revoke probation as a consequence, allowing Stanley to remain on probation with additional conditions, including that Stanley complete outpatient treatment at a facility called River Ridge. The reinstatement was based on the parties' agreement and updated information from the probation officer regarding Stanley's compliance with the terms of her probation since the violation report.

In January 2022, probation filed a second probation violation report, making the following three allegations: (1) Stanley failed to abstain from controlled substance use and tested positive for methamphetamine on two separate occasions; (2) Stanley failed to remain law abiding because she had been charged with aggravated robbery; and (3) Stanley failed to complete outpatient treatment at River Ridge and was discharged "prior to completion, with a recommendation for a higher level of care." The report noted that Stanley had admitted her substance use to her probation officer and expressed interest in starting inpatient treatment; but the report also noted "concerns regarding the chemical and mental health of Ms. Stanley, and how this is impacting the community."

At a probation revocation hearing, Stanley admitted the first violation, but did not admit the second violation. Regarding the third violation, Stanley acknowledged that she had been discharged from River Ridge, explaining that she "put [her]self in the hospital because [she] had a mental breakdown, and [she] missed so many days of that program that they kicked [her] out." Stanley explained that she made efforts to "go to detox" and intended to obtain additional treatment but could not do so while in custody.

Stanley's probation officer testified at the evidentiary hearing. The probation officer could not verify Stanley's account of attempting to obtain further treatment. The probation officer also stated that Stanley faced two additional felony charges—theft of a motor vehicle and a controlled-substance offense. The officer stated that she “would not recommend release to a treatment program at this time due to the severity level of the pending cases” and the fact that Stanley “had received a dispositional departure on this case.” The state also recommended revocation based on the severity of the underlying offense and Stanley's failure to follow recommendations and remain law abiding.

The district court noted that Stanley received a downward dispositional departure that gave her “an opportunity to right things, primarily through treatment and, obviously, stay otherwise law abiding.” The district court also observed that this was Stanley's second probation violation, with “again, allegations of continued use.” The district court declined to consider Stanley's pending criminal charges in its decision but found that her continued controlled substance use and failure to successfully complete programming were “intentional and inexcusable.” The district court also found that “there really isn't anything more we can do once we give opportunities for people to avoid prison on two occasions and they fail on both of those occasions.” The district court then revoked Stanley's probation and executed the 65-month sentence. Stanley appeals.

DECISION

Stanley argues that the district court abused its discretion in concluding that state established the second and third *Austin* factors. Stanley also asserts that the district court failed to make sufficient factual findings. We are not convinced by these arguments.

To revoke probation, a district court must identify which specific condition or conditions were violated, determine that the violation was intentional or inexcusable, and conclude that the need for confinement outweighs the policies favoring probation. *State v. Austin*, 295 N.W.2d 246, 250 (Minn. 1980). “The decision to revoke cannot be a reflexive reaction to an accumulation of technical violations,” but must instead balance “the probationer’s interest in freedom [with] the state’s interest in insuring [her] rehabilitation and the public safety.” *Id.* at 250-51 (quotation omitted). In making the three *Austin* findings, courts should “convey their substantive reasons for revocation and the evidence relied upon.” *State v. Modtland*, 695 N.W.2d 602, 608 (Minn. 2005). “The [district] court has broad discretion in determining if there is sufficient evidence to revoke probation.” *Austin*, 295 N.W.2d at 249. But this court reviews de novo whether a district court has made the findings required under *Austin*. *Modtland*, 695 N.W.2d at 605.

I. Determination that the State Satisfied the Second and Third *Austin* Factors

Under the second *Austin* factor, a district court must find that a probation violation was “intentional or inexcusable.” *Austin*, 295 N.W.2d at 250. Stanley argues that her failure to abstain and her failure to complete outpatient treatment were excusable because addiction is a chronic health condition and relapse is “part and parcel of the recovery process.” We acknowledge that recovery from addiction presents many challenges and relapse is common, but we do not agree that addiction excuses a probation violation. Indeed, Stanley directs us to no legal authority concluding that addiction can excuse a violation of probation or that addiction renders use of illegal drugs unintentional. Absent

such authority, we discern no abuse of discretion in the district court’s determination that the evidence was sufficient to establish the second factor.¹

Under the third *Austin* factor, a district court must “find that need for confinement outweighs the policies favoring probation.” *Austin*, 295 N.W.2d at 250. The third *Austin* factor involves consideration of whether:

(i) confinement is necessary to protect the public from further criminal activity by the offender; or (ii) the offender is in need of correctional treatment which can most effectively be provided if [the offender] is confined; or (iii) it would unduly depreciate the seriousness of the violation if probation were not revoked.

Modtland, 695 N.W.2d at 607 (quotation omitted). Stanley argues that the district court abused its discretion because the law prefers intermediate sanctions, she made some progress while on probation, “community treatment options remain available,” and reinstatement would not unduly depreciate the seriousness of her violation.

We are not persuaded because Stanley’s original conviction was for a controlled substance offense, and she was granted a downward dispositional departure largely based on her amenability to treatment. As the district court noted, this was Stanley’s second treatment-related probation violation. The probation violation report expressed “concerns regarding the chemical and mental health of Ms. Stanley, and how this is impacting the

¹ Stanley also argues that she was discharged from River Ridge due to her hospitalization and that no alternative treatment program was available while incarcerated. The probation officer, however, was unable to verify that information, and the probation condition at issue required Stanley to complete programming specifically with River Ridge. On this record, the district court did not abuse its discretion in declining to excuse Stanley’s discharge.

community.” Based on this record, the district court did not abuse its discretion in determining that the need for confinement outweighed the policies favoring probation.

II. Adequacy of the Factual Findings

Stanley next argues that the district court failed to make sufficiently specific factual findings. This argument, however, mischaracterizes the district court’s findings.²

It is insufficient for a district court to merely recite the *Austin* factors and “offer[] general, non-specific reasons for revocation.” *Modtland*, 695 N.W.2d at 608. Instead, district courts must tie their reasons for revocation to particular facts. *Id.* The findings should also “convey the substantive reasons for revocation and the evidence relied upon.” *Id.* at 608. In this case, the district court did more than recite the *Austin* factors. It emphasized that this was Stanley’s second treatment-related violation and explained why the treatment-related probation conditions were important: they were the basis for the initial departure. These findings, although brief, are specifically tied to the facts of this case and adequately convey the evidence relied on to support the conclusion that the need for confinement outweighed the policies favoring probation.

Affirmed.

² To the extent that portions of Stanley’s brief can be construed as challenging the district court’s findings regarding the first *Austin* factor, we conclude that the district court sufficiently identified the violations. The district court stated that Stanley admitted “additional use” and “fail[ed] to complete successfully drug rehabilitation.” The district court also clarified that it was not relying on the alleged failure to remain law abiding.